

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNION PACIFIC RAILROAD COMPANY,)	
)	
Plaintiff,)	8:08CV336
)	
vs.)	ORDER
)	
UNITED STATES DEPARTMENT OF)	
HOMELAND SECURITY, et al.,)	
)	
Defendants,)	
)	
and)	
)	
UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	8:10CV430
)	
vs.)	ORDER
)	
UNION PACIFIC RAILROAD COMPANY,)	
)	
Defendant.)	

This matter is before the court after a telephone conference with counsel for the parties on November 12, 2010. David S. Silverbrand and Lauren A. Weeman represented the United States and William M. Lamson, Jr. and Rebecca B. Gregory represented Union Pacific Railroad. The court has reviewed the filings in both cases and it appears the cases may be consolidated, pursuant to [Fed. R. Civ. P. 42\(a\)](#), as both cases arise out of the same set of facts and are subject to the same legal standards. See [EEOC v. HBE Corp.](#), [135 F.3d 543, 551 \(8th Cir. 1998\)](#). Upon consideration,

IT IS ORDERED:

1. *Union Pacific Railroad Company v. United States Department of Homeland Security, et al.*, 8:08CV336, and *United States of America v. Union Pacific Railroad Company*, 8:10CV430 are hereby consolidated for all purposes.

2. Counsel shall conduct discovery as if these consolidated cases are part of a single case. All future filings shall contain the consolidated case caption, which appears on this order, and shall be served on counsel in both cases as described below.

3. Case No. 8:08CV336 is hereby designated as the "Lead Case." Case No. 8:10CV430 is hereby designated as the "Member Case."

4. The court's CM/ECF System has the capacity for "spreading" text among the consolidated cases. If properly docketed, the documents filed in the Lead Case will automatically be filed in all Member Cases. To this end, the parties are instructed to file all further documents (except those described in paragraph 5) in the Lead Case, No. 8:08CV336, and to select the option "yes" in response to the System's question whether to spread the text.

5. The parties may not use the spread text feature to file complaints, amended complaints, and answers; to pay filing fees electronically using pay.gov; or to file items related to service of process.

6. If a party believes that an item in addition to those described in paragraph 5 should not be filed in all the consolidated cases, the party must move for permission to file the item in one or more member cases. The motion must be filed in all the consolidated cases using the spread text feature.

7. The Order for Initial Progression of Case filed on July 26, 2010, is the operable progression order governing this consolidated matter. **See** [Filing No. 98](#) in case 8:08CV336.

DATED this 15th day of November, 2010.

BY THE COURT:

s/ Thomas D. Thalken
United States Magistrate Judge